

***Effective 5/12/2015***

***Superseded 5/10/2016***

**31A-2-404 Duties of the commissioner and Title and Escrow Commission.**

- (1)
  - (a) Notwithstanding the other provisions of this chapter, to the extent provided in this part, the commissioner shall administer and enforce the provisions in this title related to a title insurance matter.
  - (b)
    - (i) The commissioner may impose a penalty:
      - (A) under this title related to a title insurance matter;
      - (B) after investigation by the commissioner in accordance with Part 3, Procedures and Enforcement; and
      - (C) that is enforced by the commissioner.
    - (ii) The commissioner shall consult with and seek concurrence of the commission in a meeting subject to Title 52, Chapter 4, Open and Public Meetings Act, regarding the imposition of a penalty, and if concurrence cannot be reached, the commissioner has final authority.
  - (c) Unless a provision of this title grants specific authority to the commission, the commissioner has authority over the implementation of this title related to a title insurance matter. When a provision requires concurrence between the commission and commissioner, and concurrence cannot be reached, the commissioner has final authority.
  - (d) Except as provided in Subsection (1)(e), when this title requires concurrence between the commissioner and commission related to a title insurance matter:
    - (i) the commissioner shall report to and update the commission on a regular basis related to that title insurance matter; and
    - (ii) the commission shall review the report submitted by the commissioner under this Subsection (1)(d) and concur with the report, or:
      - (A) provide a reason for not concurring with the report; and
      - (B) provide recommendations to the commissioner.
  - (e) When this title requires concurrence between the commissioner and commission under Subsection (2), (3), or (4):
    - (i) the commission shall report to and update the commissioner on a regular basis related to that title insurance matter; and
    - (ii) the commissioner shall review a report submitted by the commission under this Subsection (1)(e) and concur with the report or:
      - (A) provide a reason for not concurring with the report; and
      - (B) provide recommendations to the commission.
- (2) The commission shall:
  - (a) subject to Subsection (4), make rules for the administration of the provisions in this title related to title insurance matters including rules related to:
    - (i) rating standards and rating methods for a title licensee, as provided in Section 31A-19a-209;
    - (ii) the licensing for a title licensee, including the licensing requirements of Section 31A-23a-204;
    - (iii) continuing education requirements of Section 31A-23a-202; and
    - (iv) standards of conduct for a title licensee;
  - (b) concur in the issuance and renewal of a license in accordance with Section 31A-23a-105 or 31A-26-203;
  - (c) in accordance with Section 31A-3-103, establish, with the concurrence of the commissioner, the fees imposed by this title on a title licensee;

- (d) in accordance with Section 31A-23a-415 determine, after consulting with the commissioner, the assessment on a title insurer as defined in Section 31A-23a-415;
  - (e) with the concurrence of the commissioner, approve a continuing education program required by Section 31A-23a-202;
  - (f) on a regular basis advise the commissioner of the most critical matters affecting the title insurance industry and request the commissioner to direct the department's investigative resources to investigate and enforce those matters;
  - (g) in accordance with Section 31A-23a-204, participate in the annual license testing evaluation conducted by the commissioner's test administrator;
  - (h) advise the commissioner on matters affecting the commissioner's budget related to title insurance; and
  - (i) perform other duties as provided in this title.
- (3) The commission may make rules establishing an examination for a license that will satisfy Section 31A-23a-204:
- (a) after consultation with the commissioner's test administrator; and
  - (b) subject to Subsection (4).
- (4)
- (a) The commission may make a rule under this title only:
    - (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
    - (ii) with the concurrence of the commissioner, except that if concurrence cannot be reached, the commissioner has final authority; and
    - (iii) if at the time the commission files its proposed rule and rule analysis with the Division of Administrative Rules in accordance with Section 63G-3-301, the commission provides the Real Estate Commission that same information.
  - (b) The commission may not make a rule regarding adjudicative procedures.
  - (c) In accordance with Section 31A-2-201, the commissioner may make rules regarding adjudicative procedures.
- (5)
- (a) The commissioner shall annually report the information described in Subsection (5)(b) in writing to the commission.
  - (b) The information required to be reported under this Subsection (5):
    - (i) may not identify a person; and
    - (ii) shall include:
      - (A) the number of complaints the commissioner receives with regard to transactions involving title insurance or a title licensee during the calendar year immediately proceeding the report;
      - (B) the type of complaints described in Subsection (5)(b)(ii)(A); and
      - (C) for each complaint described in Subsection (5)(b)(ii)(A):
        - (I) any action taken by the commissioner with regard to the complaint; and
        - (II) the time-period beginning the day on which a complaint is made and ending the day on which the commissioner determines it will take no further action with regard to the complaint.